

NEBRASKA BOARD OF PUBLIC ACCOUNTANCY
140 N. 8th Street, Suite 290, Lincoln, Nebraska
MINUTES

July 16, 17, 18, 2003

1. General

A. Call to Order and Roll Call. The Board of Public Accountancy was called to order at 8:20 a.m. on Wednesday, July 16, 2003 with Vice Chair Nina Kavich, CPA presiding. The roll was called with the following members present: Nina Kavich, Dean Graf, William Nuckolls, Michelle Thornburg, Richard Zacharia and Jim Titus. Also present was Executive Director, Dan Sweetwood. Chair William Gaines was absent. Board member Terry Ellinger has resigned. The meeting was held at the Board's office, 140 N. 8th Street, Suite 290, Lincoln, Nebraska.

B. Approval of meeting agenda for July 16-17-18, 2003. Moved by Nuckolls, seconded by Titus, to approve the agenda for the July 16-17-18, 2003 meeting. On roll call vote, all members present voted aye. Member Gaines was absent. Motion number 1 carried.

C. Approval of the minutes of the May 7 - 8th, 2003 Board meeting. Moved by Zacharia, seconded by Titus to approve the minutes as corrected. On roll call vote, all members present voted aye. Member Gaines was absent. Motion number 2 carried.

D. Approval of the minutes of the June 17, 2003 Board meeting. Moved by Zacharia to adopt the minutes for June 17, 2003, seconded by Nuckolls. Moved by Thornburg, seconded by Nuckolls to correct the minutes to include under Item 3. A. "Motion number 1 carried" and to correct Item 4 to include "Motion number 2 carried." On roll call vote, all members present voted aye. Member Gaines was absent. Motion number 3 carried. On roll call vote, all members present voted aye on Zacharia's motion. Member Gaines was absent. Motion number 4 carried.

2. Formal Hearing for Rodney Zwygart.

Pursuant to the Board's Notice of Complaint and Formal Hearing, a hearing was held July 16, 2003 at 8:30 a.m. Attorney Robert Grimit represented the Board. Attorney Robert F. Bartle represented the Respondent, Rodney Zwygart, who was also present. R. Kent Radke was the hearing officer. Participating in the hearing were Board members, Nina Kavich, Michelle Thornburg, William Nuckolls, Richard Zacharia, Jim Titus, and Dean Graf. Board member William Gaines recused himself from the meeting. The hearing concluded at 4:14 p.m.

CLOSED MEETING

Closed Meeting: Moved by Titus, seconded by Nuckolls, that the Board go into closed session at 4:19 p.m., for the purposes of litigation, personnel, and enforcement issues. On a roll call vote all members present voted aye. Member Gaines was absent. Motion number 5 carried.

Return to Open Meeting: Moved by Zacharia, seconded by Titus, that the Board return to open session at 5:00 p.m. On a roll call vote all members present voted aye. Member Gaines was absent. Motion number 6 carried.

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Moved by Graf, seconded by Zacharia, that hearing officer Kent Radke prepare findings of fact and conclusions of law. On a roll call vote all members present voted aye. Member Gaines was absent. Motion number 7 carried.

3. Recess

Moved by Titus, seconded by Nuckolls, that the Board recess for the day at 5:02 p.m. on Wednesday, July 16, 2003. On a roll call vote all members present voted aye. Member Gaines was absent. Motion number 8 carried.

Continuation of Board meeting on July 17, 2003:

The Board reconvened on Thursday, July 17, 2003, at the Board's office, 140 N. 8th Street, Suite 290, Lincoln, Nebraska.

1. General

A. Call to Order and Roll Call. The Board of Public Accountancy was called to order at 8:38 a.m. on Thursday, July 17, 2003 with Chair William L. Gaines, Jr., CPA presiding. The roll was called with the following members present: William Gaines, Nina Kavich, Dean Graf, William Nuckolls, Michelle Thornburg, Richard Zacharia and Jim Titus. Also present was Executive Director, Dan Sweetwood, staff Jo Lowe, and guest Ken Brauer. The meeting was held at the Board's office, 140 N. 8th Street, Suite 290, Lincoln, Nebraska.

2. Public Comment Period

Time was allowed on the agenda for members of the public to address the Board with comments. There were no members of the public requesting to speak before the Board.

3. Consent Agenda

After a discussion of the future reporting of financials to the Board it was moved by Graf and seconded by Titus to give the Executive Committee the authority to seek and hire a person to continue the Peachtree reporting system. On roll call vote, all members present voted aye. Motion number 9 carried.

Approval of Consent Agenda by Roll Call Vote. Moved by Thornburg, seconded by Kavich, to approve the Consent Agenda. On roll call vote, all members present voted aye. Motion number 10 carried.

A. Published Notice of Meeting. Pursuant to call and published notice, the notice of meeting is herewith attached.

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B. Approval of April-June 2003 Disbursements. The Board reviewed and approved the April, May, and June 2003 disbursements.

C. Board Budget Status. The Board reviewed the June 30, 2003 Budget Status Report.

4. Report of the Chair

A. Report on TO DO list. No word from the Governor's office on new Board member. New staff Jo Lowe was introduced.

B. Unauthorized Use of Law Issue: The Nebraska Society brought this matter to the attention of the Chair. Information was recently sent to the Board members concerning the proposed rules. No action required.

C. Proposed Legislative Re-write/status: The Board has been working on moving forward on unresolved issues with the Nebraska Society of CPA's. No formal meeting has been scheduled yet with the Society.

D. Board Member Per Diems: General discussion of per diem for Board members. Staff will check on DAS (NE state) policy.

E. Staff- Service to Licensees: The staff needs to re-evaluate the philosophy of customer service and turnaround time on responses and enforcement actions.

F. Financial Statement Preparation: Discussion of past and present financial reporting systems used by the Board.

5. Report of the Legislative Committee

Nothing to report other than what was already reported by Chair Gaines.

6. Report of the Enforcement of Professional Conduct Committee

A. Determination of probable cause or lack of probable cause/ Complaint #0102-031 - Will be deferred until next meeting due to new information that has recently come forward.

B. Reinstatement of surrendered /revoked certificates. None at this time.

C. Report on TO DO list.

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D. Complaint Status Log. For Board information the current "log" of all open or monitored complaints is provided. No board action necessary at this time.

CLOSED MEETING

Closed Meeting: Moved by Kavich, seconded by Nuckolls, that the Board go into closed session at 10:47 a.m., for the purposes of litigation, personnel, and enforcement issues. On a roll call vote all members present voted aye. Motion number 11 carried.

Return to Open Meeting: Moved by Thornburg, seconded by Zacharia, that the Board return to open session at 1:28 p.m. On a roll call vote all members present voted aye. Motion number 12 carried.

7. Report of the Examination and Education Committee

A. Report of Committee. The committee presented a report from its July 15, 2003 committee meeting.

B. Approval of Grades for the May 2003 CPA Examination. Motion out of committee to approve the grades for the May 2003 CPA Examination. On a roll call vote all members present voted aye. Motion number 13 carried.

C. Computerized Based Testing Update. The committee is working on rules and will present before the Board at the September meeting. A rules hearing will then be conducted so the rules can be implemented before the CBT start date of April 5, 2004.

D. NASBA/CPAES Update. Committee is working on approval for November exam applications. Lynn Melson is working on the review of the contract for the reciprocal candidate transcript review. CPAES will continue to review files where problems were identified.

E. Report on To Do List The committee presented its To Do List.

F. Other Misc. Items. Discussion of exam candidates who have experienced and/or requested review by the committee.

8. Report of Licensing Committee

A. Ratification of initial permits to practice issued: certificates issued. Motion out of committee to ratify initial permits to practice. Upon roll call vote all members present voted aye. Motion number 14 carried. Motion out of committee to ratify certificates by reciprocity. Upon roll call vote all members present voted aye. Motion number 15 carried. Motion out of committee to ratify certificates by exam. Upon roll call vote all members present voted aye. Motion number 16 carried.

B. Applications for Reinstatement to Active Permit: Moved by Kavich, seconded by Graf, to give authority to License and CPE Committees to review and approve or disapprove the applications for reinstatement to Active Permit. On a roll call vote, all members present voted aye. Motion number 17 carried.

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C. Applications for Active to Inactive Retired: Motion out of committee to approve the list of applications for Active to Inactive Retired with the exception of Steven Blundell and Jean S. Jeffery, who do not meet policy requirements for this status. Upon roll call vote, all members present voted aye. Motion number 18 carried.

D. Determination on John Troshynski: Moved by Titus, seconded by Kavich, to deny application of John Troshynski for a certificate and to direct Attorney Robert Gruit to prepare an order with findings of fact and conclusion of law for the Board's consideration. On a roll call vote, members Kavich, Gaines, Titus, Nuckolls, Thornburg voted aye. Members Graf, and Zacharia voted nay. Motion number 19 carried.

E. Application for Licensure for Eric Strickler. Moved by Graf, seconded by Titus, to issue a reciprocal certificate to Mr. Strickler subject to meeting all requirements and paying applicable fee(s). Upon roll call vote, all members present voted aye. Motion number 20 carried.

F. CPA Certificate/ Permit Document: Executive Director checked with DAS printing about new certificate design proposals that will be presented to the committee for review. No action necessary at this time.

G. Licensing of New Firm/Request from Ty C. Cox, CPA, Kyle Gifford, CPA. Motion out of Committee to deny request for licensing the firm Gifford-Cox, LLC, which does not meet the licensing requirements. Upon roll call vote, all members present voted aye. Motion number 21 carried.

H. Licensing of a CPA/Request from Joseph Smith, CPA. The Executive Director was requested to inquire of Lynn Melson, Attorney General's office, if providing expert testimony fits within the category of "consulting services" as defined in the CPA Rules for licensure requirements. The Executive Director will update the Licensing Committee of her findings.

I. Report on TO DO list.

J. Other Miscellaneous Items.

9. Report of Continuing Education Committee

A. Report of the Committee. The committee will attempt to meet in August to discuss proposed changes to the CPE program.

B. Report on Deficiencies for Renewal in 2003. Staff Member Kelly Ebert reported 20 deficiencies and distributed a report to Board Members.

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C. Update on Review of CPE Rules & Guidelines. The committee is presently working on proposals to amend and modify the CPE program. The committee will meet and present its recommendations to the Board at a later meeting.

D. Report on To Do List. Requested staff to provide the number of courses evaluated and approved for future Board Meetings.

E. Other Misc. Items. Staff Member Kelly Ebert reported on CPE staff program approvals. Moved by Zacharia, seconded by Graf, to ratify CPE courses approved by staff. On a roll call vote, all members present voted aye. Kavich was absent. Motion number 22 carried.

10. Report of QEP Committee

A. Report of the Committee. There will be a committee meeting on August 8 to review final reports. Of 60-70 exemption requests, 24 were denied.

B. Report on TO DO list.

C. Other Miscellaneous Items

11. Report of Executive Director

A. Computer System Issues. The Executive Director updated the Board on information received from Kurt Meisinger, CPA, and Pat Hasenjager regarding the current computer infrastructure. They confirmed earlier review of the Board's computer systems by IMS services. The Executive Director acknowledged Board Member Richard Zacharia for his assistance. The Board directed the E.D. to institute back up procedures immediately.

B. NIS. Budget information from NIS is limited at this time. Board Members Nina Kavich and Michelle Thornburg have assisted Kelly Ebert to report disbursements and balance. The Executive Director acknowledged the Board Members for their assistance.

C. NOL Computer Grant. The Executive Director appeared before the State Records Board on July 8, 2003. The Board's grant application was approved for \$25,000 with conditions set by the Chair of the State Records Board. Dan will be in contact with the State Records Board to plan for this project.

D. Staffing & General Office Issues. The Executive Director updated the Board on activities currently being accomplished by the office staff.

E. Status of Annual Register for 2002. A postcard will be mailed to permit holders. Fifty copies of the Annual Register will be printed for distribution.

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F. New Board Member Packet. The Executive Director requested suggestions for preparing the new Board member packet.

G. Report on the TO DO list: Provided by the Executive Director.

12. New Business

A. Future Meeting Dates. The dates for the next Board Meeting were set for September 15-16, 2003 at the Board Office in Lincoln, NE.

B. NASBA Items.

1. NASBA Meetings/2003. Moved by Graf, seconded by Thornburg, to forgo three days per diem for the Board meeting to offset Portland per diems paid in error with the exception of Dean Graf who did not attend the Portland meeting. Upon roll call vote, all members present voted aye. Motion number 23 carried.

2. Annual Meeting Registration and Attendance. Moved by Kavich, seconded by Zacharia, that due to budget constraints, attendance be limited to two Board members, Dean Graf and Michelle Thornburg, for travel expenses to the NASBA Annual Meeting October 26-29, 2003, in Maui, Hawaii. Upon roll call vote, all members present voted aye. Motion number 24 carried.

3. Regional Meeting Discussion Summary: New Board Members reported the NASBA Regional meeting was beneficial especially the breakout sessions conducted each day.

4. It was moved by Titus and seconded by Nuckolls, to approve the Findings of Fact, Conclusions of Law and Final Order as prepared by Attorney Robert Gruit concerning the John Troshynski matter. Upon roll call vote all members present voted aye. Motion number 25 carried.

13. Recess

It was moved by Thornburg, and seconded by Kavich, that the Board recess at 5:01 p.m. on Thursday, July 17, 2003. On roll call vote, all members present voted aye. Motion number 26 carried.

Meeting of the Board reconvened on Friday, July 18, 2003.

1. General

A. Call to Order and Roll Call. The Board of Public Accountancy was called to order at 1:04 p.m. on Friday, July 18, 2003 with Chair William L. Gaines, Jr., CPA presiding. The roll was called with the following members present: William Gaines, Nina Kavich, Dean Graf, William Nuckolls,

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Michelle Thornburg, Richard Zacharia and Jim Titus. Also present was Executive Director, Dan Sweetwood, Board staff Jo Lowe. There were no visitors. The meeting was held at the Board's office, 140 N. 8th Street, Suite 290, Lincoln, Nebraska.

CLOSED MEETING

Closed Meeting: Moved by Nuckolls, seconded by Kavich, that the Board go into closed session at 1:05 p.m., for the purposes of litigation, personnel, and enforcement issues. On a roll call vote Graf, Kavich, Gaines, Zacharia, Nuckolls, Thornburg voted aye. Member Titus voted nay. Motion number 27 carried.

Return to Open Meeting: Moved by Titus, seconded by Nuckolls, that the Board return to open session at 1:12 p.m. On a roll call vote all members present voted aye. Motion number 28 carried.

The Board conducted a discussion of their proposed rule changes to Title 288, Chapter 10. The Board had conducted a Rule Making Hearing commencing at 8:30 a.m. at the State Capitol, Lincoln, NE. The Board decided to amend the rule change and it was decided the Rule Making process should start over with a new Rule Making Hearing.

Moved by Graf, seconded by Nuckolls to delete section #2. under section Title 288, Chapter 10, 002.03 of the proposed rule changes as offered from the Board from their June 17, 2003 Board Meeting. On roll call vote: Members Graf, Kavich, Gaines, Zacharia, and Nuckolls voted aye. Thornburg and Titus voted nay. Motion 29 carried.

3. Adjournment

It was moved by Titus, and seconded by Graf, that the Board adjourn at 2:05 p.m. on Friday July 18, 2003. On roll call vote, all members present voted aye. Members Thornburg and Nuckolls were absent. Motion number 30 carried.